

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sonia Landino	Team: APU	CCRB Case #: 201411788	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 11/20/2014 7:00 PM	Location of Incident: Farmers Boulevard and 111th Avenue, 105th Precinct stationhouse and the 113th Precinct stationhouse.	Precinct: 113	18 Mo. SOL 5/20/2016	EO SOL 5/20/2016	
Date/Time CV Reported Fri, 11/21/2014 8:55 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 11/21/2014 8:55 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM John Haynes	08551	899334	113 PCT
2. POM Thomas Skobla	21699	945316	113 PCT
3. POM Yevgeniy Zaytsev	12848	949825	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Yevgeniy Zaytsev	Abuse: At the intersection of Farmers Boulevard and 111th Avenue in Queens, PO Yevgeniy Zaytsev stopped the car in which § 87(2)(b) was an occupant.	
B.POM Thomas Skobla	Abuse: At the intersection of Farmers Boulevard and 111th Avenue in Queens, PO Thomas Skobla stopped the car in which § 87(2)(b) was an occupant.	
C.POM Thomas Skobla	Discourtesy: At the intersection of Farmers Boulevard and 111th Avenue in Queens, PO Thomas Skobla spoke rudely to § 87(2)(b)	
D.POM John Haynes	Abuse: At the 113th Precinct stationhouse, PO John Haynes did not process § 87(2)(b)'s complaint.	
§ 87(4-b), § 87(2)(g)		

Case Summary

On November 20, 2014, at approximately 7 p.m., two officers identified by the investigation as PO Thomas Skobla and PO Yevgeniy Zaytsev of the 113th Precinct, stopped § 87(2)(b)'s vehicle in the vicinity of Farmers Boulevard and 111th Avenue in Queens (**Allegation A and Allegation B**). During the verbal interaction between § 87(2)(b) and the officers, PO Skobla allegedly told § 87(2)(b) "Unfucking believable he has a gun, unfucking believable; I thought we had him" (**Allegation C**). PO Zaytsev and PO Skobla returned to their RMP without arresting or issuing a summons to § 87(2)(b). Later that same day, § 87(2)(b) went to the 113th Precinct stationhouse and spoke with PO John Haynes, who told § 87(2)(b) that officers do not take complaints at the stationhouse, causing § 87(2)(b) to leave the stationhouse without filing his civilian complaint (**Allegation D**).

This case was originally assigned to Inv. Alex Tuminello on November 28, 2014, and was reassigned to the undersigned investigator on December 5, 2014.

Mediation, Civil, and Criminal Histories

- On November 21, 2014, § 87(2)(b) rejected mediation § 87(2)(b).
- As of May 20, 2015, § 87(2)(b) has not filed a Notice of Claim with the City of New York with regard to the incident (see Board Review 01).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Officer and Civilian CCRB Histories

- PO Zaytsev has been a member of the service for 4 years and there are no substantiated allegations against him § 87(2)(g).
- This is the first CCRB complaint against PO Skobla during his 7 year tenure (see Board Review 03).
- PO Haynes has been a member of the service for 24 years, and there are three substantiated CCRB allegations against him regarding threat to property, refusal to provide name and shield number, and discourtesy. PO Haynes received no recommendations for the threat to property and received command discipline for the discourtesy and refusal to provide name and shield number (see Board Review 04).
 - In CCRB Case No. 200403847, a refusal to process a civilian complaint was closed as complainant uncooperative.
 - Various other allegations against PO Haynes were closed as complainant uncooperative, complaint withdrawn, § 87(2)(b) unsubstantiated, and exonerated.
- This is the first CCRB complaint filed by § 87(2)(b) (see Board Review 05).

Civilian Statement

Complainant/Victim: § 87(2)(b)

- On November 21, 2014, § 87(2)(b) filed this complaint with the CCRB and provided the following phone statement:
 - On November 20, 2014, at approximately 7 p.m., § 87(2)(b) was driving his vehicle on Farmers Boulevard near 111th Avenue in Queens, when he was pulled over by PO

Yevgeniy Zaytsev and PO Thomas Skobla, identified via the investigation, and two unidentified officers in a marked RMP. The officers had signaled two other vehicles that were driving behind § 87(2)(b) to move in order for the officers to pull § 87(2)(b)'s vehicle over. Once the officers exited the RMP and approached § 87(2)(b)'s vehicle, PO Skobla who sat in the RMP's passenger seat, directed § 87(2)(b) to turn his vehicle off. § 87(2)(b) complied and asked if there was a problem. Without answering § 87(2)(b)'s question, PO Skobla requested § 87(2)(b)'s license and registration. § 87(2)(b) informed PO Skobla that he was a § 87(2)(b), and provided PO Skobla with his § 87(2)(b). After PO Skobla told § 87(2)(b) he did not want to see a § 87(2)(b) and requested his identification, § 87(2)(b) provided his license, § 87(2)(b) ID card, and concealed weapons permit to PO Zaytsev, who was the driver of the RMP. PO Zaytsev told § 87(2)(b) to have a good day and PO Skobla then stated, "Unfucking believable, I thought we had him." PO Skobla made a comment about a police jacket § 87(2)(b) had in the back seat of his vehicle and § 87(2)(b) explained that he worked for a security company. Without detailing any further discussion with the officers, § 87(2)(b) stated that he did not receive a summons.

- After his interaction with PO Zaytsev and PO Skobla, § 87(2)(b) drove to the 105th Precinct stationhouse and spoke with PO Richard Tarver, who told him that he could file a complaint. Without further detailing his interaction with PO Tarver, § 87(2)(b) stated that he also spoke with PO John Haynes at the 113th Precinct stationhouse. PO Haynes told § 87(2)(b) that he "didn't know what the problem was because they have pulled LL Cool J, 50 Cent, and other people that drive BMWs, Mercedes Benz, and Range Rovers." PO Haynes also told § 87(2)(b) that correctional officers are not members of service.
 - § 87(2)(b) did not indicate how he identified PO Haynes and he did not specify if he had spoken to PO Haynes at the 105th Precinct stationhouse or a different stationhouse. § 87(2)(b) did not specifically mention that he requested to file a complaint at the 105th Precinct stationhouse and he did not mention PO Tarver or PO Haynes refusing to process his complaint.
- On November 25, 2014, § 87(2)(b) provided the following sworn CCRB statement:
 - On November 20, 2014, at approximately 7 p.m., § 87(2)(b) was driving on Farmers Boulevard in Queens when he observed two vehicles move from behind his vehicle and a marked RMP with its lights on drove directly behind his vehicle. § 87(2)(b) did not believe he was being pulled over since he had obeyed all traffic laws, but he complied and pulled his vehicle over near the intersection of Farmers Boulevard and 111th Avenue. PO Zaytsev, PO Skobla, and two unidentified, white male officers in uniform exited the marked RMP and approached § 87(2)(b)'s vehicle. PO Zaytsev approached § 87(2)(b)'s driver-side window, PO Skobla approached the passenger-side window, and the two unidentified white male officers stood near the trunk of § 87(2)(b)'s vehicle for the duration of the vehicle stop. PO Skobla directed § 87(2)(b) to turn his vehicle off, to which § 87(2)(b) complied and asked why the officers had pulled him over. Without responding to § 87(2)(b)'s question, PO Skobla instead asked § 87(2)(b) about a security jacket that was on the back seat inside his vehicle and § 87(2)(b) explained that he works for § 87(2)(b). PO Skobla then asked § 87(2)(b) for his license and registration. § 87(2)(b) provided his § 87(2)(b), but PO Skobla told § 87(2)(b) that he did not want to a § 87(2)(b) and requested § 87(2)(b) to provide his identification. § 87(2)(b) complied and provided his New York State license, § 87(2)(b) identification card, and concealed

weapons permit to PO Zaytsev. PO Skobla then asked § 87(2)(b) if he had a gun in the vehicle and § 87(2)(b) told PO Skobla that he keeps his gun at home. In response, PO Skobla stated, “Unfucking believable he has a gun. Unfucking believable, I thought we had him.” PO Zaytsev gave § 87(2)(b) his various forms of identification and told him to have a nice day. PO Zaytsev and PO Skobla then walked back to their RMP without summoning § 87(2)(b).

- After his interaction with PO Zaytsev and PO Skobla, § 87(2)(b) drove to the 105th Precinct stationhouse to file a complaint and he spoke with PO Richard Tarver. Once § 87(2)(b) told PO Tarver about the incident with PO Zaytsev and PO Skobla, PO Tarver and two unidentified officers laughed at him. § 87(2)(b) then spoke with Detective Jovoda Cooper of the 105th Precinct, who informed him that the area in which his vehicle was stopped was patrolled by either the 103rd Precinct or 113th Precinct. § 87(2)(b) drove to the 113th Precinct stationhouse, where he spoke with an unidentified male Police Administrative Assistant behind the front desk who informed § 87(2)(b) that he had to call a number on the board near the front desk if he wanted to file a complaint. This allegation against the unidentified PAA has been referred to the Office of the Chief of Department under case number § 87(2)(b). § 87(2)(b) requested to speak with a supervisor and shortly thereafter, PO Haynes approached him from behind the front desk. § 87(2)(b) identified PO Haynes from his nameplate and provided his shield number as 8121. Without detailing any prior discussion, PO Haynes told § 87(2)(b) that “they do not take complaints at the stationhouse” and reiterated that PO Haynes told him about how officers have pulled over celebrities with expensive vehicles. PO Haynes also told § 87(2)(b) that correctional officers and Homeland Security officers were not members of the service. § 87(2)(b) indicated that he was at the stationhouse for approximately minutes.
 - Although § 87(2)(b) indicated that he drove to the 105th Precinct stationhouse in order to file a complaint, he did not mention if he specifically requested to file a complaint with PO Tarver or Det. Cooper. § 87(2)(b) only stated that he told PO Tarver about the vehicle stop.
 - At the 113th Precinct stationhouse, § 87(2)(b) did not mention if PO Haynes provided him with other alternatives on how he could file his complaint. § 87(2)(b) did not mention if he left the stationhouse without filing a complaint.

NYPD Statements

Subject Officer: PO THOMAS SKOBLA

- On April 7, 2015, PO Skobla provided a sworn CCRB statement.
- PO Skobla did not bring his memo book to his CCRB interview, but stated that he had reviewed his memo book prior to arriving at the CCRB and he did not have any entries regarding this incident and did not have an independent recollection of the incident.
- On November 20, 2014, PO Skobla was assigned to Patrol Sector N with PO Zaytsev in marked RMP 4163; he did not recall if he was the operator or passenger of the RMP and he did not remember if any other officers were present inside the RMP at the time.
- PO Skobla confirmed that the initial incident location was within the geographical area patrolled by Sector N.
- PO Skobla did not remember conducting any vehicle stops, and did not interact with any other officers.

- PO Skobla had no knowledge of a civilian who identified himself as § 87(2)(b), or a civilian who went to the 113th Precinct stationhouse to file a civilian complaint against the officers who stopped his vehicle.

Subject Officer: PO YEVGENIY ZAYTSEV

- On April 9, 2015, PO Zaytsev provided a sworn CCRB statement.
- PO Zaytsev did not have any memo book entries regarding this incident, but had an independent recollection of the incident (see Board Review 06).
- PO Zaytsev was assigned to Patrol Sector N with PO Skobla and identified himself as the driver of marked RMP 4163.
- PO Zaytsev stated that he first observed § 87(2)(b)'s vehicle in motion. He could not recall if § 87(2)(b) committed any traffic violations, but he assumed § 87(2)(b) did since he was pulled over. PO Zaytsev did not think any criminal activity was occurring inside § 87(2)(b)'s vehicle before he pulled over § 87(2)(b).
- PO Zaytsev approached § 87(2)(b)'s driver-side window, while PO Skobla approached § 87(2)(b)'s passenger-side window.
- PO Zaytsev did not make any observations of the contents within § 87(2)(b)'s vehicle.
- As soon as PO Zaytsev approached the driver-side window, § 87(2)(b) stated that he had a gun on the right side of his body. PO Zaytsev did not observe a gun on § 87(2)(b)'s body or anywhere else inside the vehicle and did not request to see § 87(2)(b)'s gun.
- PO Zaytsev requested § 87(2)(b)'s identification, to which § 87(2)(b) provided a § 87(2)(b) PO Zaytsev told § 87(2)(b) that his § 87(2)(b) would not be enough and § 87(2)(b) told him that he was a § 87(2)(b). PO Zaytsev asked § 87(2)(b) if he had any identification that shows he is legally able to carry a concealed gun in New York City. § 87(2)(b) stated that his shield should be enough, but PO Zaytsev told him he had to provide identification showing he was legally able to carry a concealed gun. § 87(2)(b) then provided his § 87(2)(b) ID and his permit to carry a concealed gun. PO Zaytsev visually checked § 87(2)(b)'s identification and did not search the identifying information through the computer or over the radio. PO Zaytsev returned § 87(2)(b)'s identification, told him to have a nice day, and both he and PO Skobla returned to the RMP without issuing § 87(2)(b) a summons.
- PO Zaytsev stated that he did not use profanity against § 87(2)(b) and did not hear PO Skobla use profanity against § 87(2)(b). No other officers were present at the incident location besides PO Zaytsev and PO Skobla.
- PO Zaytsev had no knowledge of § 87(2)(b) going to the 113th Precinct stationhouse and attempting to file a civilian complaint against the officers who stopped his vehicle.

Subject Officer: PO JOHN HAYNES

- On April 2, 2015, PO Haynes provided a sworn CCRB statement.
- PO Haynes did not have a memo book entry regarding this incident (see Board Review 07).
- PO Haynes did not have an independent recollection of this incident even after he was shown a photograph of § 87(2)(b) and was told a summary of the incident.
- During his tour on November 20, 2014, he was the 113th Precinct's Auxiliary Police Coordinator and was working inside the 113th Precinct stationhouse on the second floor.
- PO Haynes had no recollection of speaking with any civilians who wanted to file a complaint or whose vehicle was stopped earlier in the day. PO Haynes had no recollection of interacting with any civilians who identified themselves as a member of service, a homeland security officer, or a correctional officer. He did not have any conversations with a civilian regarding

officers stopping LL Cool J and 50 Cent. He did not have a conversation with a civilian regarding officers stopping BMWs, Mercedes Benzes, and Range Rovers.

- PO Haynes denied telling a civilian that officers do not take complaints at the stationhouse.
- PO Haynes explained that if civilians wanted to file a complaint, they would go to the first floor and speak with the PAA and the desk sergeant who would take the complaint. He further noted that civilians can file complaints at the stationhouse via a form or they can call the CCRB.
- PO Haynes indicated that if a PAA needs assistance with a civilian and the desk sergeant is not available, he will occasionally be asked for his assistance with the civilian.

Potential Issues

- § 87(2)(b) did not mention whether the PAA or the desk sergeant at the 113th Precinct stationhouse were present when PO Haynes allegedly told him that officers do not take complaints at the stationhouse.
 - Between January 22, 2015 and April 9, 2015, § 87(2)(b) was contacted via telephone, postal mail, and email with no success. To date, § 87(2)(b) has not returned the undersigned's contact attempts in order to clarify which officers were present while he spoke with PO Haynes at the stationhouse.
 - On May 19, 2015, the undersigned received a returned letter by the United States Postal Service indicating that § 87(2)(b)'s address was not known and the letter was unable to be forwarded.
- § 87(2)(b) stated that two unidentified, white male officers in uniform stood near the trunk of his vehicle when PO Zaytsev and PO Skobla had conducted the vehicle stop, but the two unidentified officers never approached or interacted with him.
 - PO Zaytsev stated that no other officers were present when he and PO Skobla stopped § 87(2)(b)'s vehicle.
 - § 87(2)(g) [REDACTED]

NYPD Documents

- **SPRINT Index** (see Board Review 08): Indicates that there were no radio communications regarding this incident.
- **113th Precinct Tour 3 Roll Call** (see Board Review 09): Shows that PO Zaytsev and PO Skobla were the only officers assigned to Patrol Sectors N and P in marked RMP 4163. The Roll Call also indicates that PO Haynes was the Auxiliary Police Coordinator during the time of the incident inside the stationhouse.
- **113th Precinct Command Log** (see Board Review 10): Did not have any entries regarding § 87(2)(b)'s interaction with PO Haynes or his request to file a civilian complaint at the stationhouse.
- **Daily Vehicle Assignment Sheet** (see Board Review 11): Marked RMP 4163 was the only police vehicle assigned to Patrol Sectors N and P during Tour 3.

Findings and Recommendations

Allegations Not Pleaded

- **Abuse of Authority:** During his phone and sworn statements, § 87(2)(b) did not mention that he specifically requested to file a complaint with PO Tarver or Det. Cooper at the 105th Precinct stationhouse. § 87(2)(b) only stated that he told PO Tarver about the vehicle stop and § 87(2)(b) never indicated that PO Tarver and Det. Cooper refused to process his complaint. § 87(2)(g)

Explanation of Subject Officer Identification

PO Zaytsev admitted to stopping ###'s vehicle § 87(2)(g)

PO Skobla did not recall the incident, but admitted that he was partnered with PO Zaytsev on the incident date. § 87(2)(g)

§ 87(2)(b) described the officer who used profanity against him as a 6 foot to 6'1" tall, white male in uniform, who was in his early 30s, had a medium build, and had light brown hair. § 87(2)(b) specified that this officer stood near his passenger-side window throughout the vehicle stop. PO Skobla, § 87(2)(b) old at the time of the incident, is a 6'4" tall, 220-pound white male who has brown hair and brown eyes. Although PO Skobla did not remember the incident, PO Zaytsev indicated that PO Skobla had stood near § 87(2)(b)'s passenger-side window while he stood near § 87(2)(b)'s driver-side window. § 87(2)(g)

§ 87(2)(b) alleged that PO Haynes told him that officers do not take complaints at the stationhouse. § 87(2)(b) identified PO Haynes by his nameplate and believed his shield number was 8121. § 87(2)(b) described PO Haynes as a 6'1" to 6'2" tall, 210 pounds black male who was in his 50s, and had black hair and brown eyes. PO Haynes, shield number 08551, was 53 years old at the time of the incident and is a 6'2" tall, 216 pounds black male who has black hair and brown eyes. § 87(2)(g)

Allegation A – Abuse of Authority: At the intersection of Farmers Boulevard and 111th Avenue in Queens, PO Yevgeniy Zaytsev stopped the car in which § 87(2)(b) was an occupant.

Allegation B – Abuse of Authority: At the intersection of Farmers Boulevard and 111th Avenue in Queens, PO Thomas Skobla stopped the car in which § 87(2)(b) was an occupant.

§ 87(2)(g)

§ 87(2)(b) stated that he had obeyed all traffic laws on the date of the incident and did not know why the officers stopped his vehicle. § 87(2)(b) specified that he had asked PO Skobla why his vehicle was stopped, but neither officer answered his inquiry. PO Zaytsev could not recall if § 87(2)(b)

§ 87(2)(b)'s vehicle had committed any traffic violations, but he assumed § 87(2)(b) had violated traffic laws since he was stopped. Additionally, PO Zaytsev stated that he did not think any criminal activity was occurring inside § 87(2)(b)'s vehicle before the vehicle stop was conducted.

In People v. Ingle, 36 N.Y.2d 413, 414, 369 N.Y.S.2d 67, 69 (1975), the New York Court of Appeals held that a police officer may not stop an automobile for a “routine traffic check” unless he reasonably suspects a violation of the Vehicle and Traffic Law (see Board Review 12). In People v. Robinson, 97 N.Y.2d 341, 741, N.Y.S.2d 147, 767 N.E.2d 638 (2001), the New York State Court of Appeals “concluded that the reasonableness of an automobile stop hinges on the ability of the police to articulate credible facts establishing probable cause to believe that an individual has violated a traffic law” (see Board Review 13).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation C – Discourtesy: At the intersection of Farmers Boulevard and 111th Avenue in Queens, PO Thomas Skobla spoke rudely to § 87(2)(b)

§ 87(2)(g)

[REDACTED]

During § 87(2)(b)'s initial phone statement to the CCRB, he indicated that after he provided his identification to the officers, which included his concealed weapons permit, PO Skobla said, “Unfucking believable, I thought we had him.” § 87(2)(b) was consistent with the discourtesy during his CCRB interview, but mentioned that he told the officers that he kept his gun inside his home after providing his concealed weapons permit. In response, PO Skobla stated, “Unfucking believable he has a gun. Unfucking believable, I thought we had him.”

As previously discussed, PO Skobla did not recall this incident or interacting with § 87(2)(b). PO Skobla stated that on the day of the incident he was partnered with PO Zaytsev and they were assigned patrol Sector N. PO Skobla confirmed that the incident location is within the confines of

patrol Sector N, but he could not recall patrolling that specific location where the incident had occurred. During PO Zaytsev's CCRB interview, he stated that he did not use profanity against § 87(2)(b) and that he did not hear PO Skobla use profanity.

On January 22, 2015, the undersigned requested a copy of PO Skobla's memo book for the date of the incident, but PO Skobla never provided his memo book to his command. On April 7, 2015, PO Skobla was interviewed at the CCRB and stated that he forgot to bring his memo book, but that he reviewed his memo book prior to his interview and he did not have any entries regarding this incident. After his interview was conducted, the undersigned escorted PO Skobla to the in-house NYPD Monitoring Analysis Section, where he was directed to fax a copy of his memo book to the CCRB within two days of his interview. To date, the undersigned has not received PO Skobla's memo book.

According to NYPD v. Carey, Oath Index No. 579/99, an officer may not use profanity towards a civilian without justifiable reason to do so, such as the need to maintain control or gain compliance during a stressful street encounter (see Board Review 17).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Abuse of Authority: At the 113th Precinct stationhouse, PO John Haynes did not process § 87(2)(b)'s complaint.

As discussed in the Explanation of Subject Officer Identification section, § 87(2)(b) identified PO Haynes by his nameplate and shield number and provided an identical physical description of PO Haynes. § 87(2)(g), § 87(2)(b)

According to § 87(2)(b) he went to the 113th Precinct stationhouse after his vehicle was stopped in order to file a civilian complaint against the officers. When § 87(2)(b) spoke to the PAA at the front desk inside the 113th Precinct stationhouse, the PAA told him to call the number on the board in order to file a complaint. When § 87(2)(b) requested to speak with a supervisor, PO Haynes approached him from behind the front desk and told § 87(2)(b) that they do not take complaints at the stationhouse.

PO Haynes did not recall this incident and had no recollection of speaking with any civilians who wanted to file a complaint at the stationhouse on the date of the incident. He did not recall interacting with any civilians who identified themselves as a § 87(2)(b), a § 87(2)(b), or a § 87(2)(b) or having any discussion with a civilian about officers pulling over celebrities. When asked if he would assist a PAA with a civilian in the event that the desk sergeant is not available, PO Haynes admitted that he will occasionally be asked for his assistance and as such, would interact with said civilian. PO Haynes then explained that civilians can file any type of complaint at the stationhouse by filling out a complaint form or they could call the CCRB.

According to NYPD Patrol Guide Procedure 207-31, member of service are required to report all misconduct complaints to the Civilian Complaint Review Board and further notes that complaints against uniformed members of service may be made at any patrol precinct (see Board Review 14).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

Pod: 15

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____

Title/Signature

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Date